

## Message Text

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ACTION EB-07

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FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC 9494

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EO 11652: N/A

TAGS: EWWT, GT

SUBJECT: DELTA/FLOMERCA DISPUTE - STR DECISION CONVEYED TO GOVERN-  
MENT.

REF: A) STATE 298269, B) GUATEMALA 7057

SUMMARY: GOG INFORMED OF STR DECISION AGAINST GUATEMALA. ABILITY  
TO ACT TO REFORM SHIPPING REGIME BEFORE FEBRUARY 14, 1976  
NOW CONSTRICTED BY RECESS OF CONGRESS PERHAPS UNTIL MID-  
MARCH. SUGGESION MADE INFORMALLY THAT GOVT. CONSIDER  
CALLING PERTINENT CONGRESSIONAL COMMITTEE INTO SESSION  
DURING RECESS SO IT MIGHT STUDY SHIPPING BILL AND REPORT  
IT OUT AS SOON AS CONGRESS RECONVENES, OR INVITING CONGRESS  
AS WHOLE TO RESUME SESSIONS IN JANUARY TO TAKE UP BACK-  
LOG OF MUCH IMPORTANT LEGISLATION (PLUS SHIPPING BILL).  
EMBASSY WILL CONTINUE TO PRESS MATTER BUT DOUBTFUL GOVT.  
WILL SUCCEED IN MOVING AS FAST AS NECESSITATED BY FMC DEAD-  
LINE. END SUMMARY

1. SUBSTANCE OF REF A HAS BEEN COMMUNICATED TO FOREIGN  
MINISTER MOLINA BY AMBASSADOR IN COURSE OF CALL DE-  
CEMBER 19 AND TO MINISTER OF ECONOMY PALOMO BY ECONOMIC  
COUNSELOR DECEMBER 22. COPY OF LAW LEFT WITH THEM TO  
INDICATE RANGE OF RETALIATORY MEASURES WHICH MIGHT BE  
TAKEN AGAINST GUATEMALA. ABSOLUTE CHARACTER OF DEAD-  
LINE EMPHASIZED. BOTH GOG OFFICIALS WERE ASSURED HOW-  
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EVER THAT UNTIL FEB. 14, 1976, CONFIDENTIALITY OF STR

AND FMC DECISIONS WOULD BE MAINTAINED.

2. MOLINA DID NOT COMMENT IN DETAIL ON SUBSTANCE STR DECISION, BUT PALOMO, WHO AS MINISTER RESPONSIBLE IS MORE FAMILIAR WITH PROBLEM, DID. HE INDICATED THAT GOG WOULD CONTINUE TO CONSIDER A REFORM OF SHIPPING REGIME BUT AGAIN EXPRESSED DOUBT RE ABILITY GOG TO MEET DEADLINE. IN THIS CONNECTION, EXPRESSED HOPE THAT WHEN STR PRESENTS HIS RECOMMENDATIONS TO US PRESIDENT AND LATTER DECIDES ON ACTION TO BE TAKEN AGAINST GUATEMALA, HE WILL RESPECT PRINCIPLE OF "EQUALIZATION" CAREFULLY BUILT INTO FMC REMEDY.

3. NEW PROBLEM HAS NOW ARISEN. AS REPORTED IN POLITICAL BIWEEK A-207, 12/22/75, GUATEMALAN CONGRESS MAY NOT RECONVENE AFTER CHRISTMAS/NEW YEAR'S HOLIDAYS UNTIL MID-MARCH, FOLLOWING MUNICIPAL ELECTIONS EARLY THAT MONTH. THIS REPRESENTS SERIOUS SLIPPAGE ON RECONVENING DATE FROM ESTIMATE OF EARLY FEBRUARY GIVEN BY PALOMI IN LAST CONVERSATION WITH HIM (REF. B). UNDER CONSTITUTION, EXECUTIVE CANNOT ENACT LEGISLATION DURING PERIODS WHEN CONGRESS IS IN RECESS OR ADJOURNED. CAN ONLY CALL CONGRESS BACK INTO SPECIAL SESSION TO PRESENT A LAW WHICH IT MIGHT WISH ENACTED. CLEARLY GOG WOULD BE UNWILLING TO SUMMON SPECIAL SESSION OF CONGRESS SINCE THEN IT WOULD BE CLEAR IT ACTING UNDER PRESSURE FROM US. SUCH A REVELATION, AS WE HAVE REPORTED IN PAST, WOULD DISRUPT PROCESS OF REFORM OF PRESENT SHIPPING REGIME AND POSSIBLY SHATTER IT. WHAT GOVERNMENT CAN DO IS RECONVENE THE PERTINENT COMMITTEE IN CONGRESS SO THAT IT COULD STUDY PROPOSED GOVERNMENT BILL AND REPORT IT OUT AS SOON AS CONGRESS AS WHOLE RECONVENES.

4) IN CONVERSATION WITH AMBASSADOR, MOLINA EXPRESSED CONCERN AS TO WHAT GOG MIGHT BE ABLE TO DO IN ABOVE SITUATION IN ORDER TO MEET DEADLINE FEBRUARY 14 ON NEW SHIPPING REGIME. WITHOUT HOLDING OUT ANY HOPE FOR EXTENSION OF DEADLINE, AMBASSADOR MADE PERSONAL SUGGESTION THAT IN INTERIM GOVERNMENT COULD ACCELERATE FORMULATION LIMITED OFFICIAL USE

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OF ITS SHIPPING BILL AND WHEN FINISHED, INVITE PERTINENT CONGRESSIONAL COMMITTEE TO CONSIDER IT DURING RECESS. MOLINA SAID WOULD DISCUSS IDEA WITH PRESIDENT.

5) IN SUBSEQUENT TALK WITH PALOMO, HE EXPRESSED STRONG RESERVATION AGAINST SUMMONING CONCERNED COMMITTEE INTO SESSION DURING RECESS PERIOD. REMARKED THAT COMMITTEE WOULD BE THE ONE ON ECONOMY; LIKE

OTHER COMMITTEES, IT IS COMPOSED OF POLITICIANS; THEY WOULD QUESTION EXCEPTIONAL MOVE BY GOVERNMENT TO BRING THEM INTO SESSION; SPECIAL SESSION COULD BE MORE DISRUPTIVE OF PROCESS OF REFORM OF SHIPPING REGIME THAN CONTRIVITIVE. AT THAT POINT ECONOMIC COUNSELOR REFERRED TO BACKLOG OF MUCH IMPORTANT LEGISLATION GOG HAD PROPOSED BUT CONGRESS HAD NOT YET ACTED ON -- BANKING REFORM, LABOR CODE, EDUCATION BILL; POINTED OUT THE LENGTH OF CHRISTMAS VACATION CONGRESS HAS GIVEN ITSELF; AND ASKED WHETHER IT MIGHT BE POSSIBLE FOR EXECUTIVE TO INVITE CONGRESS TO RECONVENE IN JANUARY AS IN PAST YEARS. REASON GIVEN WOULD BE PENDING LEGISLATION ALREADY INTRODUCED BY GOVERNMENT; PURPOSE WOULD BE TO PROPOSE SHIPPING BILL AND GET IT ENACTED AS WELL. IDEA APPEALED MORE TO PALOMO THAN PROPOSAL TO SUMMON INTO SPECIAL SESSION ECONOMIC COMMITTEE, AND HE SAID HE WOULD CONSIDER MATTER.

6) PRESS FOLLOWING DAY REPORTED SUGGESTION BY MLN AND CAO POLITICAL PARTIES THAT CONGRESS RECONVENE IN MID-JANUARY TO TAKE UP IMPORTANT PENDING LEGISLATION AND NOT WAIT UNTIL MID-MARCH "OR BEGINNING OF APRIL". CHRISTIAN DEMOCRATS REPORTEDLY OPPOSED TO EARLIER RECONVENING OF CONGRESS. MATTER IS TO BE PUT TO ADMINISTRATIVE COMMITTEE OF CONGRESS.

7. COMMENT -- EMBASSY DISTURBED BY SERIOUS SLIPPAGE OF DATE OF RECONVENING OF CONGRESS AND HOPES GOG WILL SEE WAY CLEAR TO REQUIRE IT IN JANUARY. EVEN THEN IT WILL BE NIP-AND-TUCK WHETHER SHIPPING BILL, ONCE FORMULATED BY GOVERNMENT, CAN BE PUSHED THROUGH AHEAD OF OTHER IMPORTANT LEGISLATION WHICH CONGRESS MIGHT BE RECONVENED TO CONSIDER, IN TIME TO MAKE FMC DEADLINE. LIMITED OFFICIAL USE

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GOVERNMENT APPEARS TO BE COMMITTED TO REFORM, BUT WHETHER IT CAN BE ACHIEVED BY FEBRUARY 14, 1976 IS DOUBTFUL.

8. PRESSURE TO REFORM SHIPPING REGIME HAS BEEN DOUBLED IN RULING REACHED ON COMPLAINT BEFORE STR; A SECOND RETALIATORY MEASURE IS NOW THREATENED, SEPARATE AND ADDITIONAL TO THE FMC REMEDY; AND GOG DISPOSITION TO REFORM SHIPPING SYSTEM TO ACCOMMODATE US MAY BE AFFECTED. EMBASSY WILL PURSUE MATTER AND CONTINUE TO REPORT DEVELOPMENTS, BUT WHEREAS BEFORE WE THOUGHT THE CHANCES MIGHT BE ONE OF 10 THAT GOG WOULD SUCCEED IN REFORMING REGIME AND AVOID APPLICATION OF EQUALIZATION MEASURE, NOW WE WILL HAVE TO PUT ODDS MUCH HIGHER.

MELOY

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